

FILED 02/26/2010

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

UNITED STATES OF AMERICA

CR 05-60008-02-HO

v.

PIROUZ SEDAGHATY,

Defendant.

**~~PROPOSED~~ PROTECTIVE ORDER PURSUANT TO
SECTIONS 3 AND 4 OF THE CLASSIFIED INFORMATION PROCEDURES ACT
AND FEDERAL RULE OF CRIMINAL PROCEDURE 16(d)(1)**

This matter is before the Court on the “Government’s Fifth *In Camera, Ex Parte*, Under Seal, Motion for Protective Order Pursuant to CIPA §§ 3 and 4 and Federal Rule of Criminal Procedure 16(d)(1).” The motion seeks authorization from this Court to substitute a classified summary in lieu of disclosure of original classified materials, and to withhold disclosure of certain classified materials from discovery.

1. The Court finds that the government’s motion was properly filed *in camera, ex parte* for this Court’s review, pursuant to CIPA §§ 3 and 4 and Fed. R. Crim. P. 16(d)(1). The Submission contains classified information that requires protection against unauthorized

disclosure for reasons of national security such that its disclosure to the defense, or to the public, reasonably could be expected to cause serious damage to national security. After *in camera*, *ex parte* inspection and consideration of the motion and memorandum of law, supporting declarations and exhibits (hereinafter, the "Submission"), the Court **GRANTS** the government's motion pursuant to Sections 3 and 4 of CIPA and Rule 16(d)(1).

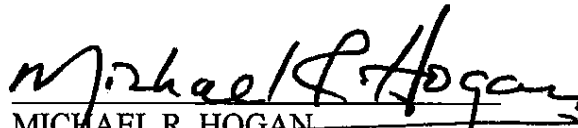
2. The government has proposed a classified summary as a substitute for certain specific classified information at issue. The Court finds that the classified summary will provide defense counsel with substantially the same ability to present the defense as would disclosure of the original classified materials. Accordingly, pursuant to Sections 3 and 4 of CIPA and Rule 16(d)(1), **IT IS HEREBY ORDERED THAT** the government is authorized to substitute the proposed classified summary of the specific information at issue substantially in the form proposed in the Submission and need not disclose to the defense the original classified materials.

3. The Court further finds that the classified materials sought to be protected in the Submission are not discoverable under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, Federal Rule of Criminal Procedure 16; and that the national security damage from disclosure to the defense, as articulated in the classified declaration submitted by the government, outweighs the defendant's need for the classified information at issue. Accordingly, **IT IS FURTHER ORDERED THAT** the government need not disclose to the defense the classified materials described in the Submission.

4. **IT IS FURTHER ORDERED** that the government's Submission is hereby sealed and shall be maintained in a facility appropriate for the storage of such classified


information by the Court Security Officer as the designee of the Clerk of Court, in accordance with established security procedures, until further order of this Court.

SO ORDERED this 26th day of FEB. 2010.


MICHAEL R. HOGAN
United States District Judge

Presented by:

KENT S. ROBINSON, OSB #09625
Acting United States Attorney


CHARLES F. GORDER, JR., OSB #912874
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